



1 Rafey S. Balabanian (SBN 315962)
2 rbalabanian@edelson.com
3 EDELSON PC
4 123 Townsend Street, Suite 100
5 San Francisco, California 94107
6 Tel: 415.234.9300/Fax: 415.373.9435

7 *Counsel for Interested Party Edelson PC*

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION**

10
11 In re:

12 THOMAS V. GIRARDI, d/b/a/

13 GIRARDI KEESE, ✓

14 *Debtor.*

21022
Case No. 2:20-bk-20122-BR

[Chapter 7]

**DECLARATION OF RAFEY
BALABANIAN**

Date: January 5, 2021

Time: 2:00 p.m.

Location: Courtroom 1668

Hon. Barry Russell

255 East Temple Street,
Los Angeles, California 90012

1 I, RAFEY S. BALABANIAN, declare as follows:

2 1. I am Managing Partner at Edelson PC, and admitted to practice in
3 California and Illinois. This declaration is based on my personal knowledge, unless
4 otherwise indicated. If called upon to testify as to the matters attested to herein, I
5 could and would competently do so.

6 2. My firm represents the plaintiffs in *Abikzer v. City of Los Angeles, et al.*,
7 No. B706830 (L.A. Sup. Ct.). The plaintiffs first contacted my firm after the
8 relationship between the Abikzers and Girardi Keese, their former counsel, broke
9 down. The Abikzers formally retained my firm to represent them in the *City of Los*
10 *Angeles* matter, and any related litigation, on December 11, 2020. The agreement
11 stipulated that my firm would provide the Abikzers exclusive representation in these
12 matters.

13 3. On December 23, 2020, in an attempt to obtain consent to a formal
14 substitution of counsel in the *Abikzer* action, I caused to be sent to Michael Monico,
15 counsel for Thomas Girardi and Girardi Keese, an email which stated my firm's
16 position that any portion of the Abikzer's settlement with the City of Los Angeles
17 that might be claimed by Girardi Keese as attorney's fees be set aside in a separate
18 account that would be placed under the control of the trustee in this action. A true and
19 correct copy of this email is attached hereto as Exhibit 1.

20 4. On December 28, 2020, after the Emergency Motion here was filed, I
21 spoke with Andrew Goodman, counsel for the Petitioning Creditors. I repeated to him
22 my firm's position that the portion of the Abikzers' settlement potentially subject to
23 their agreement with Girardi Keese be set aside. Mr. Goodman informed me that if I
24 could show him the correspondence in which we had committed to that, he likely
25 would have no problem withdrawing statements to the contrary in the Emergency
26 Motion. Attached hereto as Exhibit 2 is a true and correct copy of this exchange.

1 5. Mr. Goodman thereafter informed me that he would not be withdrawing
2 the statements in the motion. A true and correct copy of this exchange is attached as
3 Exhibits 3.

4 I declare under penalty of perjury under the laws of the State of California that
5 the foregoing is true and correct and that this Declaration was executed on this 30th
6 day of December, 2020 in San Rafael, California.

7
8 Dated: December 30, 2020



Exhibit 1

**Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)**

6 messages

Aaron Lawson <alawson@edelson.com>

Wed, Dec 23, 2020 at 11:29 AM

To: Rafey Balabanian <rbalabanian@edelson.com>, mm@monicolaw.com

Mr. Monico,

Per your discussion a few moments ago with Rafey, I am attaching a draft substitution of counsel form for the case of *Gabriel Abikzer & Maria Abikzer v. City of Los Angeles, et al.*, No. B706830, in Los Angeles County Superior Court.

The case has settled, but there were some issues with removing certain liens on the settlement funds, including one lien from a former client of Mr. Girardi's, Joseph Ruigomez, who has a judgment against Mr. Girardi and the Girardi Keese firm. We were recently retained by the Abikzers have resolved the lien issues, at least as they relate to the Abikzers, but need to be substituted as counsel to effectuate the settlement. When we receive the settlement funds, as Rafey indicated, we will set aside the portion subject to Mr. Girardi's earlier retention agreement into a separate account so that the trustee can use it however they deem fit.

Anyway, as we said, the fact that Girardi Keese is still listed as counsel of record for the Abikzers has held up the settlement, and it is urgent that we get the money to the Abikzers, who have mounting medical debt relating to the car accident that precipitated the lawsuit. The easiest way to do this is to get the signature of Mr. Girardi on the attached form. If we can't get that signature, we'll be forced to move for the same relief, but this just adds to the unnecessary delay. As you can see, we need the signature at item #5 on the form.

--

J. Aaron Lawson | Edelson PC

123 Townsend Street, Suite 100

San Francisco, California 94107

415.212.9300 (office) | **415.234.5344** (direct)alawson@edelson.com | www.edelson.com

@EdelsonPC



Edelson-PC



EdelsonLaw

**Abikzer Substitution Form.pdf**

244K

Rafey Balabanian <rbalabanian@edelson.com>

Thu, Dec 24, 2020 at 7:51 AM

To: Aaron Lawson <alawson@edelson.com>

Cc: mm@monicolaw.com

Mike,

Following up our call and email from yesterday, have you been able to secure Girardi's signature on the substitution form? I can't see how this is controversial since he's been terminated by the client and we're talking about a double amputee having to wait on settlement monies that he and his family desperately need and should have been paid in September. I know it's Christmas Eve but I'm sure you can appreciate the seriousness of the situation and the need to move quickly. Please get back to us as soon as possible, preferably today, on the substitution.

Thanks.

Rafey

Sent from my iPhone

On Dec 23, 2020, at 11:29 AM, Aaron Lawson <alawson@edelson.com> wrote:

[Quoted text hidden]

<Abikzer Substitution Form.pdf>

Rafey Balabanian <rbalabanian@edelson.com>

Thu, Dec 24, 2020 at 2:02 PM

To: Jay Edelson <jedelson@edelson.com>

Cc: Benjamin Richman <brichman@edelson.com>, Alex Tievsky <atievsky@edelson.com>, Aaron Lawson <alawson@edelson.com>, Ari Scharg <ascharg@edelson.com>

See Aaron's email below where he says we plan to place the fee portion of the settlement proceeds under the control of the bankruptcy trustee.

Rafey

Sent from my iPhone

Begin forwarded message:

From: Rafey Balabanian <rbalabanian@edelson.com>

Date: December 24, 2020 at 7:51:40 AM PST

To: Aaron Lawson <alawson@edelson.com>

Cc: mm@monicolaw.com

Subject: Re: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)

Mike,

[Quoted text hidden]

Rafey Balabanian <rbalabanian@edelson.com>

Mon, Dec 28, 2020 at 8:53 AM

To: Aaron Lawson <alawson@edelson.com>

Cc: mm@monicolaw.com

Mike,

Are you going to respond to this? If we don't hear from you by 2:00 p.m. PST, we'll just move forward and seek all appropriate relief.

Rafey

Sent from my iPhone

On Dec 24, 2020, at 7:51 AM, Rafey Balabanian <rbalabanian@edelson.com> wrote:

Mike,

[Quoted text hidden]

Michael Monico <mm@monicolaw.com>

Mon, Dec 28, 2020 at 8:55 AM

To: Rafey Balabanian <rbalabanian@edelson.com>

Cc: Aaron Lawson <alawson@edelson.com>

I just responded to Mr. Edelson. It is up to the Trustee what to do with these cases.

[Quoted text hidden]

Aaron Lawson <alawson@edelson.com>

Mon, Dec 28, 2020 at 9:04 AM

To: Rafey Balabanian <rbalabanian@edelson.com>

Exhibit 2



Aaron Lawson <alawson@edelson.com>

Fwd: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)

1 message

Rafey Balabanian <rbalabanian@edelson.com>
To: Aaron Lawson <alawson@edelson.com>

Wed, Dec 30, 2020 at 1:44 PM

Sent from my iPhone

Begin forwarded message:

From: Rafey Balabanian <rbalabanian@edelson.com>
Date: December 29, 2020 at 5:12:15 PM PST
To: Andrew Goodman <agoodman@andyglaw.com>
Subject: Re: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)

Andy,

Following up again, when can I expect a response? Tomorrow is my deadline, and if you force me to file a response, I reserve the right to seek all appropriate relief.

Rafey

On Tue, Dec 29, 2020 at 9:29 AM Andrew Goodman <agoodman@andyglaw.com> wrote:

I will
Andy

Sent from my iPhone

On Dec 29, 2020, at 9:19 AM, Rafey Balabanian <rbalabanian@edelson.com> wrote:

Andy,

Following up, are you moving forward with withdrawing the statements you made about my firm? I need to know because, if not, then I'm going to file my response later today. Please get back to me as soon as possible.

Thanks.

Rafey

----- Forwarded message -----

From: **Rafey Balabanian** <rbalabanian@edelson.com>
Date: Mon, Dec 28, 2020 at 10:38 AM
Subject: Fwd: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)
To: <agoodman@andyglaw.com>, Boris Treyzon <btreyzon@actslaw.com>
Cc: Jay Edelson <jedelson@edelson.com>

Andy/Boris,

Good speaking with you both this morning. Please see below my associate's email from last week to Tom Girardi's criminal defense counsel asking that they agree to substitution in the *Abikzer* case and making clear that our intention has always been to segregate the portion of the settlement proceeds that would constitute Girardi Keese's attorneys' fees in the case in a separate account under the control of the bankruptcy trustee. My firm has never and will not in the future take the position that we are somehow entitled to those fees and, instead, our view is that they should be dealt with through the bankruptcy.

I hope this brings clarity to the issue and that the statements made in the Emergency Motion for Appointment of an Interim Trustee are promptly corrected by the Petitioners. As discussed, Andy, please send me whatever you plan to file.

Thanks, and

All the best,
Rafey

----- Forwarded message -----

From: **Rafey Balabanian** <rbalabanian@edelson.com>
Date: Thu, Dec 24, 2020 at 7:51 AM
Subject: Re: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)
To: Aaron Lawson <alawson@edelson.com>
Cc: <mm@monicolaw.com>

Mike,

Following up our call and email from yesterday, have you been able to secure Girardi's signature on the substitution form? I can't see how this is controversial since he's been terminated by the client and we're talking about a double amputee having to wait on settlement monies that he and his family desperately need and should have been paid in September. I know it's Christmas Eve but I'm sure you can appreciate the seriousness of the situation and the need to move quickly. Please get back to us as soon as possible, preferably today, on the substitution.

Thanks.

Rafey

Sent from my iPhone

On Dec 23, 2020, at 11:29 AM, Aaron Lawson <alawson@edelson.com> wrote:

Mr. Monico,

Per your discussion a few moments ago with Rafey, I am attaching a draft substitution of counsel form for the case of *Gabriel Abikzer & Maria Abikzer v. City of Los Angeles, et al.*, No. B706830, in Los Angeles County Superior Court.

The case has settled, but there were some issues with removing certain liens on the settlement funds, including one lien from a former client of Mr. Girardi's, Joseph Ruigomez, who has a judgment against Mr. Girardi and the Girardi Keese firm. We were recently retained by the Abikzers have resolved the lien issues, at least as they relate to the Abikzers, but need to be substituted as counsel to effectuate the settlement. When we receive the settlement funds, as Rafey indicated, we will set aside the portion subject to Mr. Girardi's earlier retention agreement into a separate account so that the trustee can use it however they deem fit.

Anyway, as we said, the fact that Girardi Keese is still listed as counsel of record for the Abikzers has held up the settlement, and it is urgent that we get the money to the Abikzers, who have mounting medical debt relating to the car accident that precipitated the lawsuit. The easiest way to do this is to get the signature of Mr. Girardi on the attached form. If we can't get that signature, we'll be forced to move for the same relief, but this just adds to the unnecessary delay. As you can see, we need the signature at item #5 on the form.

--

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 <Abikzer Substitution Form.pdf>

--

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Pursuant to requirements related to practice before the U.S. Internal Revenue Service, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

--

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--

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Exhibit 3



Aaron Lawson <alawson@edelson.com>

Fwd: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)

2 messages

Rafey Balabanian <rbalabanian@edelson.com>

Wed, Dec 30, 2020 at 10:50 AM

To: Aaron Lawson <alawson@edelson.com>

Sent from my iPhone

Begin forwarded message:

From: Rafey Balabanian <rbalabanian@edelson.com>
Date: December 29, 2020 at 6:53:47 PM PST
To: Andrew Goodman <agoodman@andyglaw.com>
Subject: Re: Abikzer v. LA, No. B706830 (L.A. Sup. Ct.)

Andy,

Given my email to you that the fees will be placed under the control of the trustee, I'd like you to state the basis for your statements in the emergency motion that my firm planned to take appropriate the fees in the Abikzer case. So far You have said that statement was based on conversations with Boris Treyzon and Paul Cody. Boris has since confirmed that you are mistaken. So other than your conversation with Mr. Cody, what else are you relying on for your sanctionable statements?

Rafey

Sent from my iPhone

On Dec 29, 2020, at 5:24 PM, Andrew Goodman <agoodman@andyglaw.com> wrote:

Rafey – I have spoken with my clients and various other parties and counsel. Based on these conversations, please be advised that no changes will be made to the Emergency Motion or supporting Declarations.

Andy Goodman

Andrew Goodman, Esq.

GOODMAN LAW OFFICES

A Professional Corporation

[30700 Russell Ranch Road](#)

[Suite 250](#)

Main Document

Page 14 of 17

[Westlake Village, CA. 91362](#)

Telephone: 818-802-5044

Facsimile: 818-975-5256

E-Mail: agoodman@andyglaw.com

Rafey Balabanian <rbalabanian@edelson.com>

Wed, Dec 30, 2020 at 1:44 PM

To: Aaron Lawson <alawson@edelson.com>

[Quoted text hidden]

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Edelson PC, 123 Townsend Street, Suite 100, San Francisco, CA 94107

A true and correct copy of the foregoing document entitled (*specify*): Declaration of Rafe S. Balabanian; Exhibit 1;
Exhibit 2; Exhibit 3

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 12/30/2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 12/30/2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 12/30/2020, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/30/2020 Austin T. Prather
Date Printed Name

Austin T. Prather
Signature

Notice will be electronically mailed to:

Andrew Goodman on behalf of Petitioning Creditor Erika Saldana
agoodman@andyglaw.com

Andrew Goodman on behalf of Petitioning Creditor Jill O'Callahan
agoodman@andyglaw.com

Andrew Goodman on behalf of Petitioning Creditor John Abassian
agoodman@andyglaw.com

Andrew Goodman on behalf of Petitioning Creditor Kimberly Archie
agoodman@andyglaw.com

Andrew Goodman on behalf of Petitioning Creditor Virginia Antonio
agoodman@andyglaw.com

Andrew Goodman on behalf of Petitioning Creditor Robert M. Keese
agoodman@andyglaw.com

Eric D. Goldberg on behalf of Creditor Stillwell Madison, LLC
eric.goldberg@dlapiper.com

Jennifer Witherell Crastz on behalf of Creditor Wells Fargo Vendor Financial Services, Inc.
jcrastz@hrhlaw.com

Lewis R. Landau on behalf of Interested Party Courtesy NEF
Lew@Landau.net

Ronald Richards on behalf of Interested Party Courtesy NEF
ron@ronaldrichards.com

Steven T. Gubner on behalf of Interested Party Courtesy NEF
sgubner@bg.law

Timothy J. Yoo on behalf of Interested Party Courtesy NEF
tjy@lnbyb.com

Richard W. Esterkin on behalf of Interested Party Courtesy NEF
richard.esterkin@morganlewis.com

United States Trustee (LA)
ustpreion16.la.ecf@usdoj.gov

Edith R. Matthai on behalf of Interested Party Courtesy NEF
ematthai@romalaw.com

Notice will be mailed via U.S. Mail to:

Thomas Girardi
1126 Wilshire Boulevard
Los Angeles, CA 90017

Girardi Keese
1126 Wilshire Boulevard
Los Angeles, CA 90017

Leonard Pena
PENA & SOMA, APC
402 S. Marengo Avenue, Suite B Pasadena, CA 91101